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In re Application of JACK, William E. et al.

PCT Application No.: PCT/US00/26900

US Application No.: 10/089,027

Int. Filing Date: 29 September 2000

Priority Date: 30 September 1999

Attorney's File Reference: NEB-166-PUS

For: INCORPORATION OF MODIFIED NUCLEOTIDES BY ARCHAEON DNA

POLYMERASES AND RELATED

METHODS

: DECISION ON

: PETITION UNDER

: 37 CFR 1.181

This decision is in response to applicants' facsimile transmission of 22 October 2003, which is being treated as a petition under 37 CFR 1.181 requesting use, in the above-identified US national stage application, of the computer readable form of the sequence listing filed in the above-identified related international application in accordance with 37 CFR 1.821(e) and vacation of the Notification of Defective Response (Form PCT/DO/EO/916).

BACKGROUND

On 29 September 2000, applicants filed international application number PCT/US00/26900 claiming a priority date of 30 September 1999. On 12 April 2001, applicants filed a demand for international preliminary examination. Accordingly, the thirty-month period for paying the basic national fee in the United States of America expired at midnight on 01 April 2002 since 30 March 2002 was a Saturday.

On 26 March 2002, applicants filed a transmittal letter for entry into the US national stage under 35 USC 371, which was accompanied by, inter alia, the basic national fee and a declaration of inventorship.

On 06 June 2002, the US Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form DO/EO/905) indicating, inter alia, that a copy of the sequence listing in computer readable form had not been submitted as required by 37 CFR 1.821(e).

On 06 June 2002, the applicants filed, inter alia, a request that the computer readable version of the sequence listing filed in the above-identified international application, and used by US International Searching Authority for purposes of completion of the International Search Report, be used in the above-identified US national stage application based upon that international application in accordance with 37 CFR 1.821(e).

On 30 September 2003, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating, inter alia, that a copy of the sequence listing in computer readable form had not been submitted as required by 37 CFR 1.821(e) and PCT Rule 13ter.1(a)(ii).

On 22 October 2003, the applicants filed the present facsimile transmission confirming their request to use the computer readable copy, of the sequence listing in the above-identified international application, in the above-identified related US national stage application. The applicants also request vacation of the Notification of Defective Response mailed 30 September 2003.

DISCUSSION

Applicants' request filed 06 June 2003 to use the computer readable form, of the sequence listing filed in the above-identified international application, in the above-identified related US national stage application is acceptable under 37 CFR 1.821(e). Accordingly, it is appropriate to vacate the Notification of Defective Response mailed 30 September 2003.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.181 to use the computer readable form, of the sequence listing filed in the above-identified international application, in the above-identified related US national stage application under 37 CFR 1.821(e) is **GRANTED**. Further, the Notification of Defective Response (Form PCT/DO/EO/916) mailed 30 September 2003 is hereby **VACATED**.

This application is being forwarded to the DO/EO/US for continued processing in accordance with this decision, that is, for 1) vacation of the Notification of Defective Response (Form PCT/DO/EO/916) mailed 30 September 2003 and 2) preparation and mailing of a Notification of Acceptance (Form PCT/DO/EO/903) indicating a date under 35 USC 371 and 102(e) of 26 March 2002.

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